



Public Employees for Environmental Responsibility

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July 6, 2018

U.S. Office of Personnel Management
FOIA Requester Service Center
1900 E Street, N.W.
Room 4458
Washington, D.C. 20415-7900

ATTN: FOIA REQUEST

RE: FREEDOM OF INFORMATION ACT REQUEST VIA U.S. MAIL & EMAIL

To Whom It May Concern:

Every year since 2002, the U.S. Office of Personnel Management (OPM) has conducted a Federal Employee Viewpoint Survey (FEVS), the results of which measure employee morale, engagement, and other perceptions about their agencies.

The definition for “senior leaders” in prior surveys was: “The heads of departments/agencies and their immediate leadership team responsible for directing the policies and priorities of the department/agency. May hold either a political or career appointment...”

In an “improved” survey rolled out to federal employees, OPM changed that definition for the 2018 survey to mean: “The nearest senior executive (SES, Director, or higher-level GS [i.e., civil servant] in your organizational structure...” (Emphasis added). Thus, unless the employee was a direct or second level report to a political appointee, that person’s view of that top official is now outside the survey scope.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests information concerning the basis for this change of definition in the FEVS survey instrument. Specifically, we request the following:

1. Any OPM rationale for this definition change circulated both internally or to other federal agencies; and
2. A copy of each email in the account of the following 13 OPM officials:

Kimberly Wells, Survey Analysis, Office of Strategy and Analysis
Lance Harris, Data Analysis, Office of Strategy and Analysis
Kinya Lee, Senior Advisor on Research and Evaluation
Jozette R. Robinson, Executive Secretary and Research Management Officer
Stephen D. Hickman, Deputy Executive Secretary
Kathleen McGettigan, Chief Management Officer
Kathleen M. Bullock, White House Liaison
Stephen M. Billy, Deputy Chief of Staff
Michael D. Dovilla, Chief of Staff
Michael J. Rigas, Deputy Director
Timothy J. Duffy, Special Assistant to the Deputy Director
Jeff T.H. Pon, Director
Mary E. Anderson, Special Assistant to the Director

during the period January 1, 2018 to the present, that contains any of the following words

Change
Changes
Modify
Modification
Modifications
Definition
Leadership
Senior

This request does not include any news clipping or article.

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of *Vaughn v. Rosen* (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

PEER also requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.

The FOIA request is, by its terms, limited to identifiable activities of OPM and its employees.

2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.

The requested material would provide the public with the stated and perhaps a different actual basis for this change in the survey. The records sought were generated by those OPM officials making this change. As such, these records are the most likely records to enable the public to understand why this change was made.

3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.

The requested information answers the question as to why the official survey of federal employees plans to no longer asks them to rate their agency heads or top political leaders. The FEVS had questions, such as –

- “How satisfied are you with the policies and practices of senior leaders”
- Do you “have a high level of respect for your senior leaders”
- Do your “senior leaders maintain high standards of honesty and integrity”

In the latest FEVS, employees are directed to confine their opinions to the “nearest senior executive.”

This change diminishes the worth of the Federal Employee Viewpoint Survey. In addition, employees in large agencies no longer know which top officials they are supposed to rate.

The general public has a keen interest in the effective operation of federal agencies and FEVS was a tool for measuring that effectiveness from the viewpoint of federal workers, arguably those in the best position to assess official effectiveness, competence, and other related qualities.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER website which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

PEER has a long track record of attracting media and public attention to the internal workings of federal agencies. Moreover, the FEVS survey results generate broad media coverage every year.

4. The disclosure must contribute “significantly” to public understanding of government operations or activities.

In an April 4 memo to department heads about this year’s survey, OPM Director Jeff Pon wrote that the 2018 “Improvements include: (1) clarifications to definitions (e.g., leadership....)” He stated that these “Improvements are based on recommendations from agency stakeholders” but does not identify them, indicate what they recommended, or explain why the changes enhance the value of results.

The records we request will fill in this gap and allow the public to understand whether this change was truly an improvement or was an obfuscation.

In addition, our request will answer whether high-level Trump administration officials pressured OPM to make this change so that the FEVS could no longer be used as a referendum on the political leadership of surveyed agencies.

5. The extent to which disclosure will serve the requestor's commercial interest.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code. If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch
Executive Director